

in each craft involved in the performance of the contract work. All solicitations for construction contracts shall reference the affirmative action requirements and the offeror's obligation to make good faith efforts to employ women in craft positions.

(3) Pursuant to the OFCCP order dated August 30, 1976, agencies shall develop "Special Bid Conditions" for use on high impact projects in non-plan areas. These special bid conditions will include mandatory goals and timetables for the utilization of minorities. The Procurement Executive using the criteria issued by OFCCP will determine those projects that are "high impact." The contracting officer is responsible for compliance with policies and procedures contained in the OFCCP "Construction Compliance Program Operations Manual." Language for inclusion in solicitations or contracts contained in the manual may be modified, provided all of the requirements are retained. The contracting officer shall develop the goals and timetables and shall confer with the appropriate OFCCP regional office. The Office of Civil Rights will provide assistance as necessary, when requested. Special bid conditions will be submitted by the contracting officer to the appropriate OFCCP regional office for approval unless otherwise directed by the Procurement Executive. When special bid conditions are applicable, adequate presolicitation lead time should be allowed for submission of the special bid conditions to OFCCP national and regional offices.

(c) An attempt to limit in any major respect the equal opportunity requirements included in an invitation for bids or request for proposals for a construction contract shall constitute grounds for a determination that the offeror does not qualify as a responsible offeror and for rejection of the bid or proposal. In the case of construction acquisition by DOE prime contractors, this determination shall be made only with the approval of the DOE contracting officer.

[49 FR 11998, Mar. 28, 1984, as amended at 56 FR 41965, Aug. 26, 1991, 58 FR 36365, July 7, 1993; 59 FR 9106, Feb. 25, 1994]

922.807 Exemptions.

(c) Contracting officer requests for exemption from E.O. 11246 should be directed to the Procurement Executive for submission to the Director, OFCCP.

PART 923—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

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923.7002 Worker Safety and Health.

923.7003 Contract clauses.

AUTHORITY: 42 U.S.C. 7101 et seq. and 50 U.S.C. 2401 et seq.

923.002 Policy.

(a) *Requirement.* FAR 23.002 and Section 3(e) of Executive Order 13423, Strengthening Federal Environmental,

Department of Energy

923.405

Energy and Transportation Management, require contracts for the operation of Government-owned facilities or Government-owned motor vehicle fleets to include provisions that obligate the contractor to comply with the requirements of Executive Order 13423 to the same extent as the Federal agency would be required to comply if the agency operated the facility or fleet.

(b) *Contract clause.* Insert the clause at 970.5223-6, Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, in contracts for Contractor operation of a DOE facility or motor vehicle fleet.

[75 FR 57692, Sept. 22, 2010]

EFFECTIVE DATE NOTE: At 75 FR 57692, Sept. 22, 2010, subpart 923.1 was added, effective October 22, 2010.

Subpart 923.1—Sustainable Acquisition

SOURCE: 75 FR 57693, Sept. 22, 2010, unless otherwise noted.

EFFECTIVE DATE NOTE: At 75 FR 57693, Sept. 22, 2010, subpart 923.1 was added, effective October 22, 2010.

923.101 Policy.

The Department has promoted energy efficient products as well as products with recycled or biobased content as these products have become more common and the market has become more energy and resource aware. All of these products and services and others with environmentally preferable attributes are captured in the DOE Sustainable Acquisition Program. Guidance on all these products may be found at: <http://www.hss.energy.gov/pp/epp/>.

923.102 Applicability to contractors.

Many of the Department's major facilities are operated by contractors. Provisions regarding those contracts may be found at Part 970 of this chapter. At other locations, the Department makes significant use of contractors to operate and maintain its facilities. As such, the Department encourages the greatest possible use of energy efficient and environmentally sustain-

able products and services by its facility support contractors. The DOE Sustainable Acquisition Program is to be followed by all contractors operating DOE facilities or motor vehicle fleets.

923.103 Contract clauses.

Insert the clause at 952.223-78, Sustainable Acquisition Program, or its Alternate I, in all contracts under which the contractor operates Government-owned facilities or Government-owned fleets or performs construction at a Government-owned facility. All such contracts should also include the following clauses: FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223-10, Waste Reduction Program; FAR 52.223-XX, Compliance with Environmental Management Systems (see 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223-15, Energy Efficiency in Energy Consuming Products; and FAR 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

Subpart 923.4—Use of Recovered Materials

EFFECTIVE DATE NOTE: At 75 FR 57693, Sept. 22, 2010, subpart 923.4 was removed, effective October 22, 2010.

923.405 Procedures.

(e) When acquiring items designated in the EPA Comprehensive Procurement Guidelines, the EPA recommended percentage of recovered/recycled content or range of content contained in the Recovered Materials Advisory Notice (RMAN) shall be specified in the solicitation and contract as the minimum percentage of recovered/recycled content or range of content. Acquisition of a product with recycled content exceeding the RMAN recommended content or range of content is encouraged if the product performs acceptably.

[68 FR 6358, Feb. 7, 2003]